

**ASSEMBLY BILL**

**No. 1064**

---

**Introduced by Assembly Member Furutani**

February 18, 2011

---

An act to amend Sections 39625 and 39625.02 of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1064, as introduced, Furutani. Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006: shoreside electrical power infrastructure.

(1) Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, general election, authorizes the issuance of general obligation bonds for various transportation-related purposes, including emission reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors. The State Air Resources Board is required to allocate the funds to be used for air quality purposes pursuant to specified requirements. The state board is prohibited from approving funding for usable project segments if the benefits associated with each individual segment are insufficient to meet the objectives of the program from which the individual segment is funded.

This bill would make this prohibition inapplicable for a shoreside electrical power infrastructure project that is administered by a California port, and instead would require the individual segments of these projects be a part of an adopted terminal plan submitted to the state board.

(2) Existing law, if it is anticipated that project costs will exceed the approved project budget, requires an agency receiving the funds described in paragraph (1) to provide a plan to the state board for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase.

This bill would make this requirement inapplicable for a shoreside electrical power infrastructure project that is administered by a California port.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 39625 of the Health and Safety Code is  
2 amended to read:

3 39625. The Legislature finds and declares as follows:

4 (a) In November 2006, the voters approved the Highway Safety,  
5 Traffic Reduction, Air Quality and Port Security Bond Act of 2006,  
6 also known as Proposition 1B, that, among other things, provided  
7 one billion dollars (\$1,000,000,000) to reduce emissions associated  
8 with the movement of freight along California's trade corridors.

9 (b) Proposition 1B requires these funds to be made available,  
10 upon appropriation by the Legislature and subject to the conditions  
11 and criteria provided by the Legislature, to the State Air Resources  
12 Board in order to reduce the emissions associated with goods  
13 movement.

14 (c) Proposition 1B further required these funds to be made  
15 available for emission reductions not otherwise required by law  
16 or regulation. These funds are intended to supplement existing  
17 funds used to finance strategies that reduce emissions and public  
18 health risk associated with the movement of freight commencing  
19 at the state's seaports and land ports of entry and transported  
20 through California's trade corridors.

21 (d) Tremendous growth in goods movement activity has created  
22 a public health crisis in communities located adjacent to ports and  
23 along trade corridors. It is the intent of the Legislature that these  
24 funds be expended in a manner that reduces the health risk  
25 associated with the movement of freight along California's trade  
26 corridors.

1     (e) (1) *The building and completion of shoreside electrical*  
2 *power infrastructure at California's public ports is an important*  
3 *component of reducing air pollution emissions caused by important*  
4 *maritime activities.*

5     (2) *The building and completion of shoreside electrical power*  
6 *infrastructure at California's public ports will create new*  
7 *construction jobs and other employment opportunities for the*  
8 *California workforce.*

9     (3) *Using public funds for the building and completion of*  
10 *shoreside electrical power infrastructure represents a responsible*  
11 *use of publicly financed bond funds because the investment will*  
12 *be made in property owned by a public entity, with long-term*  
13 *emission benefits that will last for the duration of the anticipated*  
14 *payback period for the bonds.*

15     (4) *California leads the world in the use of shoreside electrical*  
16 *power infrastructure and will continue to do so once regulations*  
17 *adopted by the State Air Resources Board take full effect in 2014.*  
18 *These regulations are the most comprehensive set of shorepower*  
19 *regulations in the world and mandate that all regulated oceangoing*  
20 *vessels that are equipped and able to use shoreside power do so,*  
21 *and that, at a minimum, at least 50 percent of all vessels in a*  
22 *regulated fleet use shoreside power beginning in 2014, 70 percent*  
23 *in 2017, and 80 percent in 2020.*

24     (5) *The total costs of shoreside electrical power operation to*  
25 *the operators of the regulated fleets of container vessels, cruise*  
26 *liners, and refrigerated vessels, that must retrofit their vessels and*  
27 *equipment in order to use the shorepower systems at berth and*  
28 *comply with the California regulations, were estimated by the*  
29 *State Air Resources Board to be approximately \$1.8 billion. This*  
30 *expense is a substantial investment and must be made by those*  
31 *oceangoing vessel owners and their customers.*

32     (6) *Because of the unique nature of shorepower, where emissions*  
33 *will be reduced only when a privately owned vessel operates with*  
34 *public infrastructure, the private investment in the vessel is a direct*  
35 *matching source for public dollars invested in electrification of*  
36 *the public property.*

37     (7) *California's public seaports and the international trade that*  
38 *they facilitate are critical components of the state economy, directly*  
39 *or indirectly employing millions of Californians, contributing*  
40 *billions of dollars in economic activity, and generating local and*

1 *state tax revenues. Therefore, California's ports should be given*  
2 *the ability to successfully compete for cargo volume, attract new*  
3 *trade, and continue to grow.*

4 ~~(e)~~

5 (f) It is the intent of the Legislature that the state board maximize  
6 the emission reduction benefits, achieve the earliest possible health  
7 risk reduction in heavily impacted communities, and provide  
8 incentives for the control of emission sources that contribute to  
9 increased health risk in the future.

10 ~~(f)~~

11 (g) It is the intent of the Legislature that the state board develop  
12 partnerships between federal, state, and private entities involved  
13 in goods movement to reduce emissions.

14 (h) *It is the intent of the Legislature to streamline government*  
15 *operations and overhead, spur new employment opportunities,*  
16 *and improve port competitiveness while also reducing port-related*  
17 *emissions, and therefore, it is imperative that all incentive*  
18 *programs and investment opportunities available to the state be*  
19 *implemented in the most aggressive, responsible, and effective*  
20 *manner.*

21 ~~(g)~~

22 (i) The purpose of this chapter is to establish standards and  
23 procedures for the expenditure of these funds.

24 SEC. 2. Section 39625.02 of the Health and Safety Code is  
25 amended to read:

26 39625.02. (a) As used in this chapter and in Chapter 12.49  
27 (commencing with Section 8879.20) of Division 1 of Title 2 of  
28 the Government Code, the following terms have the following  
29 meanings:

30 (1) "Administrative agency" means the state agency responsible  
31 for programming bond funds made available by Chapter 12.49  
32 (commencing with Section 8879.20) of Division 1 of Title 2 of  
33 the Government Code, as specified in subdivision (c).

34 (2) Unless otherwise specified in this chapter, "project" includes  
35 equipment purchase, right-of-way acquisition, and project delivery  
36 costs.

37 (3) "Recipient agency" means the recipient of bond funds made  
38 available by Chapter 12.49 (commencing with Section 8879.20)  
39 of Division 1 of Title 2 of the Government Code that is responsible  
40 for implementation of an approved project.

1 (4) “Fund” ~~shall have~~ *has* the meaning as defined in subdivision  
2 (c) of Section 8879.22 of the Government Code.

3 (b) Administrative costs, including audit and program oversight  
4 costs for the agency administering the program funded pursuant  
5 to this chapter, recoverable by bond funds shall not exceed 5  
6 percent of the program’s costs.

7 (c) ~~The State Air Resources Board~~ *state board* is the  
8 administrative agency for the goods movement emission reduction  
9 program pursuant to paragraph (2) of subdivision (c) of Section  
10 8879.23 of the Government Code.

11 (d) The administrative agency shall not approve project fund  
12 allocations for a project until the recipient agency provides a project  
13 funding plan that demonstrates that the funds are expected to be  
14 reasonably available and sufficient to complete the project. The  
15 administrative agency may approve funding for usable project  
16 segments only if the benefits associated with each individual  
17 segment are sufficient to meet the objectives of the program from  
18 which the individual segment is funded, *or, if the project is a*  
19 *shoreside electrical power infrastructure project that is*  
20 *administered by a California port, the individual segment funded*  
21 *is part of an adopted terminal plan submitted to the state board*  
22 *pursuant to Section 93118.3 of Title 17 of the California Code of*  
23 *Regulations.*

24 (e) Guidelines adopted by the administrative agency pursuant  
25 to this chapter and Chapter 12.49 (commencing with Section  
26 8879.20) of Division 1 of Title 2 of the Government Code are  
27 intended to provide internal guidance for the agency and shall be  
28 exempt from the Administrative Procedure Act (Chapter 3.5  
29 (commencing with Section 11340) of Part 1 of Division 3 of Title  
30 2 of the Government Code), and shall do all of the following:

31 (1) Provide for audit of project expenditures and outcomes.

32 (2) Require that the useful life of the project be identified as  
33 part of the project nomination process.

34 (3) Require that project nominations have project delivery  
35 milestones, including, but not limited to, start and completion dates  
36 for environmental clearance, land acquisition, design, construction  
37 bid award, construction completion, and project closeout, as  
38 applicable.

39 (f) (1) (A) As a condition for allocation of funds to a specific  
40 project under Chapter 12.49 (commencing with Section 8879.20)

1 of Division 1 of Title 2 of the Government Code, the administrative  
2 agency shall require the recipient agency to report, on a semiannual  
3 basis, on the activities and progress made toward implementation  
4 of the project. The administrative agency shall forward the report  
5 to the Department of Finance by means approved by the  
6 Department of Finance. The purpose of the report is to ensure that  
7 the project is being executed in a timely fashion, and is within the  
8 scope and budget identified when the decision was made to fund  
9 the project. ~~ff~~

10 (B) *If it is anticipated that project costs will exceed the approved*  
11 *project budget, the recipient agency shall provide a plan to the*  
12 *administrative agency for achieving the benefits of the project by*  
13 *either downscoping the project to remain within budget or by*  
14 *identifying an alternative funding source to meet the cost increase.*  
15 *The administrative agency may either approve the corrective plan*  
16 *or direct the recipient agency to modify its plan. This subparagraph*  
17 *does not apply to a shoreside electrical power infrastructure*  
18 *project that is administered by a California port.*

19 (2) Within six months of the project becoming operable, the  
20 recipient agency shall provide a report to the administrative agency  
21 on the final costs of the project as compared to the approved project  
22 budget, the project duration as compared to the original project  
23 schedule as of the date of allocation, and performance outcomes  
24 derived from the project compared to those described in the original  
25 application for funding. The administrative agency shall forward  
26 the report to the Department of Finance by means approved by the  
27 Department of Finance.